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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/886,830	06/21/2001	John Joseph Curro	8593	8077

27752 7590 05/19/2003

THE PROCTER & GAMBLE COMPANY
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EXAMINER

PIERCE, JEREMY R

ART UNIT	PAPER NUMBER
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1771

7

DATE MAILED: 05/19/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/886,830

Applicant(s)

CURRO ET AL.

Examiner

Jeremy R. Pierce

Art Unit

1771

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 March 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Response to Amendment

1. Amendment A has been filed on March 11, 2003 as Paper No. 6. Claims 1-6 have been amended. New claims 7-20 have been added. The amendment is sufficient to withdraw the 35 USC 102 rejections set forth in sections 2 and 4 of the last Office Action.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 2 and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by Friemel et al. (U.S. Patent No. 4,597,218).

Friemel et al. disclose a sachet for pest control (abstract). Two webs are bonded face-to-face under the application of heat with a pest control agent in-between (column 7, line 63 –column 8, line 52 and Figure 6). The bonding area represented by numeral 10 forms its own discrete area that has a length that is larger than the width (see Figure 2).

4. Claims 3 and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Dickenson et al. (U.S. Patent No. 4,876,023).

Art Unit: 1771

Dickenson et al. disclose a nonwoven sachet that contains a detergent composition (column 1, lines 43-55). The sachet may be formed with a plurality of pockets to form a multi-compartment sachet capable of holding incompatible laundry ingredients (column 2, lines 58-68). An article with multiple compartments would create a plurality of bond sites with the claimed aspect ratio. The detergent composition may contain zeolite material (column 9, line 40), which would act as an odor-absorbing material.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1, 3, 4, 6, 19, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Friemel et al. in view of Lang (U.S. Patent No. 4,994,053).

Friemel et al. do not disclose using edible substances or odor-absorbing substances between the two webs. Lang discloses a composite article that has particulate material placed between two bonded webs (Abstract). Lang discloses anti-odorants (column 6, lines 53-54) and edible substances (column 7, line 6) may be placed between the two webs. It would have been obvious to one having ordinary skill in the art to use edible substances or odor-absorbing substances in the article of Friemel et al. in order to create additional uses for the web material, as taught by Lang.

Art Unit: 1771

With regard to claims 19 and 20, both Friemel et al. and Lang have regularly repeating bond sites (see Figures).

7. Claims 1, 4, 19, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dickenson et al. in view of Lang.

Dickenson et al. do not disclose using edible substances between the two webs. Lang discloses a composite article that has particulate material placed between two bonded webs (Abstract). Lang discloses edible substances may be placed between the two webs (column 7, line 6). It would have been obvious to one having ordinary skill in the art to use edible substances or odor-absorbing substances in the article of Dickenson et al. in order to create additional uses and applications for the web material, as taught by Lang. With regard to claims 19 and 20, the multi-compartment sachet of Dickenson et al. would have regularly repeating bond sites.

8. Claims 1, 3, 4, 6-8, 11-14, and 17-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Haynes et al. (U.S. Patent No. 5,941,862) in view of Lang and further in view of McCormack et al. (U.S. Patent No. 5,964,742).

Haynes et al. disclose an absorbent structure comprising a first web layer, second web layer, and hydrogel-forming polymer in-between (column 4, lines 10-24). The two web layers may be bonded to one another via point bonding with heat (column 14, lines 23-36). Haynes et al. do not disclose an edible substance or an odor controlling substance to be present between the two layers. Lang discloses a composite article that has superabsorbent material placed between two bonded webs (Abstract). As a substitution for the superabsorbent material, Lang discloses anti-

Art Unit: 1771

odorants (column 6, lines 53-54) and edible substances (column 7, line 6) may be placed between the two webs. It would have been obvious to one having ordinary skill in the art to use edible substances or odor-absorbing substances in the article of Haynes et al. in order to create additional uses and applications for the web material, as taught by Lang. Haynes et al. teach the size of the bonding sites can vary depending on the particular application (column 14, lines 33-36), but do not teach using bond sites with an aspect ratio of at least about 2. McCormack et al. teach that point bonding with an aspect ratio of at least about 2 creates fabric with increased strength and abrasion resistance (Abstract). It would have been obvious to one having ordinary skill in the art to bond the article of Haynes et al. with an aspect ratio of at least about 2 in order to create an article with increased strength and abrasion resistance, as taught by McCormack et al. With regard to claims 7, 11, 13, and 16, Haynes et al. do not disclose any dimensions for the thermal bonds. However, Haynes et al. do describe the size of zones where absorbent polymer is substantially devoid between the two webs (column 13, lines 21-47). These zones are cited to range preferably between 5 and 30 mm. Looking at Figure 1, the zones are represented by numeral 6 and the thermal bonds are represented by numeral 7. Since the zones 6 are cited to be as small as 2 mm (about 0.1 inches), it appears from the drawings that the thermal bonds 7 would inherently be around the size of less than 0.2 inches in length and less than 0.02 inches in length. If not, it would have been obvious to one having ordinary skill in the art to adjust the size of the bonds as a result effective variable that would change the peel strength of the web, since it has been held that discovering an optimum value of a result effective

Art Unit: 1771

variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980). With regard to claims 8, 12, 14, and 18, the central region of Haynes et al. is taught to be continuous (column 8, lines 36-48). With regard to claims 19 and 20, the bond sites regularly repeat (Figure 1).

9. Claims 2, 5, 9, 10, 15, and 16 rejected under 35 U.S.C. 103(a) as being unpatentable over Haynes et al. in view of Kniewske et al. (U.S. Patent No. 5,258,429) and further in view of McCormack et al. as applied in Section 8 of this Office Action.

Haynes et al. do not teach the article for use in agricultural purposes. Kniewske et al. disclose that absorbent articles used in diapers can also be used to hold seeds for agricultural products (column 2, lines 65-68). It would have been obvious to one having ordinary skill in the art to include agricultural substances in the article of Haynes et al. in order to use the web in agricultural applications, as taught by Kniewske. With regard to claims 9 and 15, the same reasoning for rejection applies as set forth in the rejections of claims 7, 11, 13, and 16 in section 8 of this Office Action. With regard to claims 10 and 16, the same reasoning for rejection applies as set forth in the rejections of claims 8, 12, 14, and 18 in section 8 of this Office Action.

Double Patenting

10. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

Art Unit: 1771

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

11. Claims 1-20 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-22 of copending Application No. 09/886,893. Although the conflicting claims are not identical, they are not patentably distinct from each other because both applications claim two webs that are thermally bonded with particulate material disposed between them.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Response to Arguments

12. Applicant's arguments filed in Paper No. 6 have been fully considered but they are not persuasive.

13. Applicant argues that the bond sites are used throughout the web, and not used to form seams like in Friemel et al. However, the claims do not preclude the bond sites being used as seams. The bond sites may exist throughout the web and be used as seams simultaneously.

14. Applicant's argument with respect to the size of the bond sites is moot with respect to the independent claims, which do not recite any size for the bond sites.

Art Unit: 1771

15. Applicant argues that the bond sites of the present invention fracture upon the application of a force. However, this limitation is not quantified in any way by the claims. The Friemel et al. reference would also have bond sites that would fracture upon some applied force. Since there is no quantification for the degree of force required to fracture the bond sites, Friemel et al. fully meets the limitation.

16. Applicant argues that the short, discrete bonds of the present invention could not be used to make closed, non-connecting pockets of Dickenson et al. However, the fact that the pockets of Dickenson et al. are non-connecting indicates that they would be discrete. Furthermore, the independent claims do not recite dimensional limitations for the bond sites.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeremy R. Pierce whose telephone number is (703) 605-4243. The examiner can normally be reached on Monday-Thursday 7-4:30 and alternate Fridays 7-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on (703) 308-2414. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

Application/Control Number: 09/886,830

Page 9

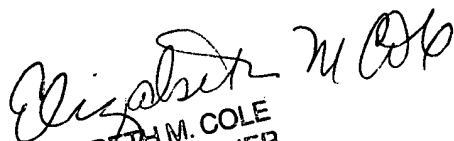
Art Unit: 1771

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.



Jeremy R. Pierce
Examiner
Art Unit 1771

May 14, 2003



ELIZABETH M. COLE
PRIMARY EXAMINER